

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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**JAMIE URTUBIA, Individually and on  
behalf of all other persons similarly situated,  
Plaintiff,**

**against**

**Index No.11-cv-2901 (LTS)(RLE)**

**NOTICE OF MOTION**

**BA VICTORY CORP., and ISMAEL ALBA,  
Defendants.**

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**NOTICE OF MOTION FOR APPROVAL OF COLLECTIVE ACTION NOTICE**

**PLEASE TAKE NOTICE** that upon the accompanying (a) memorandum of law, (b) the declaration of Plaintiff's counsel, Jeanne Christensen, Esq. and Christopher J. Gray, Esq., and the exhibits attached thereto, (c) the declaration of Plaintiff Jamie Urtubia, and (d) all pleadings filed herein, Plaintiff will move this Honorable Court on a date and time to be set by the Court for the Court's approval of Plaintiff's Motion for Conditional Certification and Court-Authorized Notice Pursuant to Section 216(b) of the FLSA.

The motion will specifically seek the entry of an Order: (1) allowing the case to proceed as a collective action; (2) directing Defendants to disclose the names and last known addresses of current and former employees who are potential plaintiffs and putative members of the collective action class; (3) approving the entitled Court-Authorized Notice of Lawsuit and Opportunity to Join, attached as Exhibit D to the declaration of Jeanne Christensen, Esq. and the proposed Consent to Become Party Plaintiff attached thereto as Exhibit F; (4) directing Defendants to immediately cease and desist all contact between potential putative class members with respect to any element of this action, including all communications and/or threats regarding INS reporting or deportation; and (5) ordering Defendants to produce any documents or other evidence demonstrating contact or any communication with any putative

class member relating to this action, including the purported affidavits already executed. A proposed order is submitted herewith.

Plaintiffs have met and conferred with Defendants' counsel and have used their best efforts to resolve the issues raised by this motion.

**PLEASE TAKE FURTHER NOTICE**, that Defendants' opposition, if any, is to be served by October 3, 2011.

Date: September 2, 2011  
New York, New York

Respectfully submitted,

/s/Jeanne Christensen

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and

/s/Christopher J. Gray

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